

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY
TCAP/SECTION 1602
OWNER CLOSING CERTIFICATE**

_____ 20 _____

I certify that I am the duly elected and acting _____ of the sole [general partner/managing member] of _____ a _____ limited partnership ("Owner"). In connection with a \$_____ [TCAP/Section 1602] loan (the "ADFA Loan") from Arkansas Development Finance Authority ("ADFA") to Owner for _____ ("Development") and the closing of the ADFA Loan.

I hereby certify, as of the date hereof, the following:

1. All representations, warranties, certifications, acknowledgments, covenants and/or agreements as made in each of the following documents, which are incorporated herein by this reference, are true and accurate as of the date hereof and are hereby ratified and affirmed:

TCAP and Section 1602 Exchange Program Application;

TCAP and Section 1602 Exchange Program Award Letter;

TCAP Agreement and Section 1602 Exchange Program Agreement;

TCAP Mortgage

Section 1602 Exchange Program Mortgage

Guaranties

TCAP Promissory Note; and

Section 1602 Exchange Program Promissory Note.

2. All information provided to ADFA in or with respect to the following items, which are incorporated herein by this reference, is true and accurate as of the date hereof and is hereby ratified and affirmed:

Materials submitted in response to TCAP and Section 1602 Exchange Program Award Letter;

TCAP and Section 1602 Exchange Program Application and all associated documents and information submitted; and

Guaranties.

3. Owner has made good faith efforts to secure the maximum amount of private financing for the Development based on potential rents. Owner reaffirms all statements and representations it has made to ADFA to demonstrate that it has made this good faith effort and acknowledges that ADFA has relied upon its statements and representation in making the determination that Owner is eligible for the ADFA Loan.

4. Owner has made good faith efforts to obtain investment commitments for tax credits in lieu of the ADFA Loan. Owner reaffirms all statements and representations it has made to ADFA to demonstrate that it has made this good faith effort and acknowledges that ADFA has relied upon its statements and representations in making the determination that Owner is eligible for the ADFA Loan.

5. Attached hereto as **Exhibit A** is a true, complete and accurate copy of the Development Budget, as of the date hereof, which is identical to the Development Budget previously submitted to ADFA.

6. Total Development Costs for the Development shall not exceed \$_____.

7. Total Developer Fee to be paid in connection with the Development shall not exceed \$_____.

8. Attached hereto as **Exhibit B** is a true, complete and accurate copy of the Expenditure and Construction Schedule, as of the date hereof, which is identical to the Expenditure and Construction Schedule previously submitted to ADFA.

9. [Private Financing has closed in the amount of \$_____/All conditions requirements to allow the Private Financing, in the amount of \$_____, to close simultaneously with the closing of the ADFA Loan have been met.]

10. Owner is not in default in connection with the Private Financing or any agreements with Private Lenders.

11. [The syndication has closed and the amount of Syndication Equity is \$_____/All conditions and requirements to allow the Syndication Equity, in the amount of \$_____, to close simultaneously with the closing of the ADFA Loan have been met.]

12. Owner is not in default under the Syndication Agreement or any agreements with the Syndicator.

13. All advances of Private Financing, if any, and/or Syndication Equity, if any, have been applied to costs shown on the Development Budget.

14. No proceedings by or against Owner or any general partner of Owner have been commenced in bankruptcy or for reorganization, liquidation, or the readjustment of debts under the bankruptcy Code or any other law, whether state or federal, nor has Owner or any general partner of Owner made an assignment for the benefit of creditors, admitted in writing him, her, or it any action seeking an order appointing a trustee or receiver of all or a substantial part of the property of Owner or any such general partner.

15. No judicial proceeding has been filed or is pending for the dissolution of Owner, and no circumstances have occurred or exist that have triggered or will trigger a dissolution of Owner. No notice has been given by the Secretary of State that such office intends to terminate the existence of Owner.

16. There is no action, suit, or proceeding pending, or threatened, against or affecting the Development or Owner in any court at law or in equity, or before or by any governmental instrumentality, whether federal, state, county or municipal.

17. The consummation of the transactions contemplated and the performance or observance of Owner's obligations in connection with the ADFA Loan, have been duly authorized by the Owner, will not conflict with or result in a breach of any of the terms, conditions or provisions of documents and filings pursuant to which Owner has been organized and is existing, or of any law or any regulation, order, injunction or decree of any court or governmental instrumentality, or of any agreement or instrument to which Owner is now a party or is subject, or constitute a default thereunder, or (except in connection with the ADFA Loan) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon the Development or any of the property or assets of Owner pursuant to the terms of such agreement or instrument.

18. No authority or proceedings for the authorization of the ADFA Loan or the submission and execution of all documents in connection with the closing of the ADFA Loan has or have been repealed, rescinded or revoked.

19. No consent or authorization of or registration, declaration or filing with any governmental instrumentality having jurisdiction over the Development is required in connection with the valid execution and delivery of the Loan Documents or the performance of any of the transactions required thereby, or, if required such consent or authorization shall have been obtained or such registration, declaration or filing shall have been accomplished prior to the date of such consent is required to have been obtained.

20. The construction of the Development and the proposed use thereof will be in compliance with all applicable zoning, subdivision, environmental protection use and building codes, energy conservation standards, historic preservation requirements, laws, regulations and ordinance, at the federal, state and local level and Owner has no

knowledge of any notice of violation of any laws, ordinances, codes, requirements or orders of any governmental instrumentality having jurisdiction over the Development.

21. Any and all federal, state and local income tax returns required to be filed by Owner have been filed, and all taxes reflected upon any such tax returns, all past due taxes, interest and penalties and all estimated payments required to be paid have been paid.

22. Owner has good and marketable title to an indefeasible fee simple estate in the Property, subject to no lien, charge or encumbrance, except such as are listed as exceptions to title or exclusions from coverage in the Title Insurance Policy being issued concurrently with the recording of the Mortgage.

23. All personal property with respect to which Owner has granted to ADFA a security interest pursuant to any of the Loan documents is owned by Owner free and clear of all liens, encumbrances and security interests.

24. Owner has not executed and is not a party to any contract or agreement of any kind which could give rise to a right by the other party thereto to acquire a lien against the Property, except in connection with the Private Financing and no work or site activity has been commenced prior to the execution of this Agreement and the recordation of the Mortgage, except for work or site activity insured over in the Title Insurance Policy. The Construction contract and the Architect's Agreement are each in full force and effect and neither party thereto is in default thereunder.

25. Only costs includable in eligible basis will be funded by the ADFA Loan. Cost overruns will be funded by Owner from sources other than the ADFA Loan.

26. Owner has not treated, stored, recycled, disposed of or discharged any hazardous, toxic or polluting substances on or into the Property, and Owner has no actual knowledge of any other person or entity, including, without limitation, any previous owner of the Property, having treated, stored, recycled, disposed of or discharge any hazardous, toxic or polluting substances on or into the Property.

27. Owner has not actual knowledge of any notification having been filed with regard to the discharge of hazardous, toxic or polluting substances on or into the Property under the Federal Comprehensive Environmental Response, Compensation and Liability Act or under any federal or state law pertaining to protection of the environment.

28. Since the date of the _____, Owner has no knowledge of any materially adverse change in its financial position, results of operations or financial condition from that set forth in documentation and materials supplied to ADFA in connection with the Tax Credit Program Requirements and the [TCAP/Section 1602] Program and, to the best of our knowledge, no event affecting Owner or the Development which should be disclosed to ADFA so that all prior documentation and materials submitted to ADFA are true and accurate in all material respects.

29. All capitalized terms, used herein, but not otherwise defined, shall have the same meaning as in the Loan Agreement.

30. [General Partner/Managing Member], for itself and on behalf of Owner, and all individuals and entities involved with Owner, acknowledges that Arkansas Code Annotated, Section 5-36-202, makes it a Class B felony for any person to obtain or retain public benefits, including, the Low Income House Tax Credit Program and the [TCAP/Section 1602] Program funds, by means of any false statement, misrepresentation or impersonation, (2) through failure to disclose a material fact used in making a determination as to the qualifications of the person(s)/entity(ies) to receive public benefit, or (3) receipt, retention, or disposition of a public benefit with knowledge or with reason to know that the public benefit was obtained by unlawful means. and further acknowledged that the statements contained in this Certificate are statements of substance made for the purpose of influencing ADFA to make the ADFA Loan to Owner for the Development.

31. This Certificate is given for the benefit of ADFA and any title insurer of ADFA, and, in connection with the ADFA Loan, ADFA may rely upon all certifications and statements in it.

32. [TCAP only] Owner has not entered into any contract with a contractor who is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs. Owner has complied with subpart C of 2CFR Part 180, as required by 2 CFR Part 2424.

33. [TCAP only] Owner has and shall develop and manage the Development in compliance with the following Federal requirements:

a. Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 and the regulations at 24 CFR Part 107 (Equal Opportunity in Housing).

b. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part I.

c. The Age Discrimination Act of 1875 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146 "Nondiscrimination on the Basis of Age in HUD programs or Activities Receiving Federal Financial Assistance."

d. Affirmative Marketing – When marketing units in the Development, Owner shall comply with the ADFA affirmative fair housing marketing plan and procedures approved by ADFA.

e. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8 "Nondiscrimination Based on Handicap in

Federal Assisted Programs and Activities of the Department of Housing and Urban Development.”

f. National Environmental Policy Act (NEPA) and Related Laws – owner shall comply with all laws referenced by, and requirements set forth in, 24 CFDR Part 58.6, including ongoing requirements related to any required mitigation for the Development resulting from the NEPA review and clearance and flood insurance as required by the National Flood Insurance Reform of 1994, if applicable.

g. The Lead-Based Point Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations at 24 CFR Part 35 - applicable if the Development involves rehabilitation.

h. Davis-Bacon Prevailing Wages – All contracts between Owner and Contractor and all subcontractors meet the wage rate requirements of Section 1606 of the Division A of the American Recovery and Reinvestment Act of 2000.

i. “Anti-Lobbying” Restrictions – (Restrictions on lobbying in 31 USC 1352 and implementing regulation at 24 CFR Part 87 “New Restrictions on Lobbying”). No federally appropriated funds, including the Funds, have been paid or will be paid, by or on behalf of Owner, to any person to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.

j. 2 CFR Part 2424 “Non-procurement Debarment and Suspension” – Owner has not and will not enter into any contract with a contractor who is debarred, suspended, or otherwise excluded from or ineligible for participation in federally assistance programs. Owner shall comply with subpart C of 2 CFR Part 180, as required by 2 CFR Part 2424.

k. Owner and Contractor has or will provide a drug-free workplace for its employees in accordance with the requirements of O.C.G.A. §50-24-3(b)(7).

l. Required Signage – Development signage must be posted in a manner consistent with criteria established by HUD.

m. Other Requirements – All other applicable federal state and local laws, regulations and requirements.

IN WITNESS THEREOF, I have hereunto set my hand of this _____ day of
_____, 20_____.

Name:_____

EXHIBITS